

EXHIBIT D

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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

WAYNE RUDEN,

Plaintiff,

vs.

C.R. BARD, INC., a New Jersey
corporation, BARD PERIPHERAL
VASCULAR, INC., (a subsidiary and/or
division of defendant C.R. BARD, INC.) an
Arizona corporation, CALIFORNIA
PACIFIC MEDICAL CENTER, and DOES
1-100 INCLUSIVE,

Defendants.

Case No. 4:15-cv-05189-JSW

**PLAINTIFF WAYNE RUDEN'S RE-
NOTICE OF MOTION FOR REMAND**

Date: January 22, 2016
Time: 9:00 a.m.
Location: Courtroom 5: Second Floor

Complaint Filed: October 7, 2015

ORAL ARGUMENT REQUESTED

NOTICE OF MOTION AND MOTION

TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

NOTICE IS HEREBY GIVEN that Plaintiff Wayne Ruden hereby re-notices his motion to remand this cause to the State of California, San Francisco County Superior Court pursuant to 28 U.S.C. § 1447(c) for hearing on **January 22, 2016, at 9:00 a.m.** or as soon thereafter as counsel may be heard at Courtroom 5, Second Floor, Northern District of California, Oakland Courthouse, 1301 Clay Street, Oakland, California, 94612, the Honorable Jeffrey S. White presiding. Plaintiff's motion to remand was previously noticed for hearing on January 15, 2016, at 9:00 a.m. in the same place and before the same judicial officer.

Plaintiff's motion to remand this matter is made on the grounds that California Pacific Medical Center ("CPMC") is an indispensable, non-diverse defendant who has not consented to removal.¹ Therefore, C.R. Bard, Inc. and Bard Peripheral Vascular, Inc. (collectively, "Bard")'s request for removal has not been perfected, and removal is improper under 28 U.S.C. § 1441(b). Mr. Ruden also seeks an award of fees and costs incurred as a result of the improper removal request pursuant to 28 U.S.C. § 1447(c).

This motion is based on this Notice of Motion and the Motion, the Memorandum of Points and Authorities, the Declaration of Glen Turner, the pleadings and papers on file herein including plaintiff's First Amended Complaint ("FAC"), and upon other matters as may be presented to the Court at the time of the hearing. Mr. Ruden respectfully requests oral argument.

ONGARO PC

Dated: December 7, 2015

By: /s/ Glen Turner
Glen Turner
Attorneys for Plaintiff
WAYNE RUDEN

¹ See, CPMC's Opposition to Bard Defendants' Motion for Stay p. 1, attached as Exhibit A to the Declaration of Glen Turner in support of the Motion to Remand ("Turner Decl.") ("CPMC opposes co-defendant BARD's motion to stay all proceedings as moot. BARD removed the action asserting diversity jurisdiction. But the parties are not diverse. CPMC is a California corporation, and plaintiff is a resident of California.")